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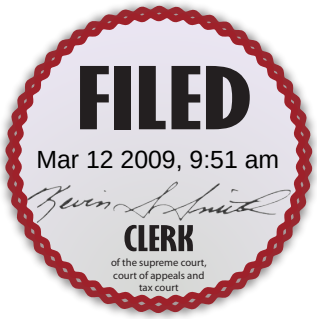

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IN THE
COURT OF APPEALS OF INDIANA

TIMOTHY LEE PAWSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 76A04-0810-CR-627
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE STEUBEN SUPERIOR COURT
The Honorable William C. Fee, Judge
Cause Nos. 76D01-0708-FD-960, 76D01-0501-CM-76 and 76D01-0706-FD-699

March 12, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Timothy Pawson appeals his sentence for Nonsupport of Dependent Children, as a Class D felony, pursuant to a plea agreement. He presents a single issue for our review, namely, whether his sentence is inappropriate in light of the nature of the offense and his character.

We affirm.

FACTS AND PROCEDURAL HISTORY

In June 2007, Pawson stopped paying his child support obligation of $127 per week. By August 2007, his total arrearage was $4002, and the State charged Pawson with nonsupport of dependent children, as a Class D felony. Because Pawson had failed to appear with respect to a pending, unrelated 2001 criminal charge, the trial court ordered that he be held without bail. On August 25, 2008, Pawson pleaded guilty as charged, and the plea agreement left sentencing open to the trial court's discretion. The trial court sentenced Pawson to three years executed. This appeal ensued.

DISCUSSION AND DECISION

Pawson contends that his sentence is inappropriate in light of the nature of the offense and his character. Although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution "authorize[] independent appellate review and revision of a sentence imposed by the trial court." Roush v. State, 875 N.E.2d 801, 812 (Ind. Ct. App. 2007) (alteration original). This appellate authority is implemented through Indiana Appellate Rule 7(B). Id. Revision of a sentence under Appellate Rule 7(B) requires the appellant

to demonstrate that his sentence is inappropriate in light of the nature of his offenses and his character. See Ind. Appellate Rule 7(B); Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). We assess the trial court's recognition or non-recognition of aggravators and mitigators as an initial guide to determining whether the sentence imposed was inappropriate. Gibson v. State, 856 N.E.2d 142, 147 (Ind. Ct. App. 2006). However, "a defendant must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review." Roush, 875 N.E.2d at 812 (alteration in original).

Here, the trial court identified Pawson's criminal history as an aggravator, and the court did not identify any mitigators. Pawson's criminal history consists of four felony convictions and twenty-two misdemeanor convictions dating back to 1980. And the trial court noted that some of Pawson's convictions were for crimes of violence. In addition, Pawson has violated probation on several occasions. The trial court imposed the maximum sentence of three years executed.

Pawson contends that his sentence is inappropriate in light of the nature of the offense. In particular, he avers that "[a]lthough an arrearage of $4002 is not insignificant, it is minor in the context of a maximum sentence." Brief of Appellant at 12. Pawson maintains that the nature of the offense should be judged with respect to the $4002 arrearage and not the $7758.28 arrearage that had accrued by the time of sentencing. Pawson asserts that he should not be punished for that portion of the arrearage that accrued while he was incarcerated pending his trial. But the State points out that he was incarcerated pending trial because of his failure to appear with regard to an unrelated

prior criminal charge. Accordingly, we judge the nature of the offense based upon the $7758.28 arrearage. Pawson has not demonstrated that his sentence is inappropriate in light of the nature of the offense.

Pawson contends that his character is good in that his prior convictions are unrelated to the instant offense; he expressed a desire to work; and he would have been employed if he had been given a suspended sentence. However, in light of the four felony convictions and twenty-two misdemeanor convictions Pawson has accrued since 1980, his criminal history reflects a bad character. And Pawson's demonstrated inability to comply with the conditions of probation further supports that assessment. Finally, Pawson's interest in employment does not warrant special consideration. And the trial court ordered that Pawson would be assessed for admission to a work release program. Pawson has not shown that his sentence is inappropriate in light of his character.

Affirmed.

BAKER, C.J., and KIRSCH, J., concur.